

4. That on February 10, 2020, the U.S. Department of Justice Federal Bureau of Prisons denied the Plaintiff's claim for medical negligence. (Exhibit "1" Denial of Federal Tort Claim)

5. Six months having elapsed, and all conditions precedent to a Federal Tort Claims Act have been met.

6. That Plaintiff has exhausted all of his remedies under the Prison Litigation Reform Act, 42 U.S.C. §1997e, attached hereto as Exhibit "2".

7. Venue is proper within this District under 28 U.S.C. §1402(b) as the acts complained of occurred in the Western District of Tennessee, Memphis, Tennessee.

8. Venue is proper within this District under 28 U.S.C. §1402(b) as the acts complained of occurred in the Western District of Tennessee, Memphis, Tennessee.

PARTIES

9. That Plaintiff, Richard Clark was an inmate at the Federal Correction Institute in Memphis, Tennessee at all-time pertinent to this cause of action.

10. The United States Bureau of Prisons is an agency of the United States of America.

11. The United States of America is the appropriate defendant under the Federal Tort Claims Act.

12. That Defendant, Patricia Tyson, at all times pertinent to this cause of action was an officer and agent of the U.S. Department of Justice Federal Bureau of Prisons and was acting under color of federal law.

FACTS

13. That on September 26, 2017, Plaintiff was working the facility's H.V.A.C., installing an air conditioning cover with a drill and the drill slipped off the screw and went through the hand gloves being worn by the Plaintiff injuring the Plaintiff's right hand.

14. That the Defendant, Patricia Tyson failed to proper the Plaintiff with the proper gloves to protect his hand from injury.

15. After the drill went through the Plaintiff's hand, he was sent to medical and a Band-Aid was placed on his hand by Tori Holmes and sent away.

16. On September 27, 2017, the Plaintiff was called back to medical by Dr. Prince and set to an outside hospital where he spent six (6) days under treatment for his left hand repair.

17. The Plaintiff had lacerations to her left hand and webbing between his thumb and 1st finger.

CAUSES OF ACTION

18. That the Defendant, the United States of America, through its agents, servants and employees are guilty of one or more of the following acts of negligence, each and every such act being a direct and proximate cause of the Plaintiff's injuries and pain and suffering and nerve damage to his left hand:

a. Negligently a carelessly deviating from the standard of care required and expected by the Defendant in failing to diagnosis and treat the Plaintiff's wound in a timely manner.

b. Carelessly deviating from the standard of care in failing to timely and properly treat the Plaintiff for symptoms related to the laceration of the Plaintiff's hand and sending him back to his barracks without adequate treatment and in pain.

19. That the Defendant, specifically alleges that the Defendant, the United States of America, through its agents, servants, and employees acting with the scope of their employment was negligent in the medical care and attention rendered to the Plaintiff in failing recognize the

severity of the wound; failing to timely treat and refer Plaintiff for appropriate treatment; and these omissions were a failure to exercise the degree of care, skill and diligence used by medical providers in this community and/or similar community under the circumstance presented to them at the time and was the proximate cause of the Plaintiff's injuries and pain and suffering.

20. Plaintiff has contemporaneously filed the Affidavit of Sheila F. Campbell (Exh "3") with the attached Certificate of Good Faith filed contemporaneously with this Complaint.

21. That the Defendant, Patricia Tyson, was an officer, acting under color of law, of the Federal Bureau of Prison (BOP) and the Plaintiff's supervisor that forced the Plaintiff to work in an unsafe condition and deliberately indifferent to the risk of harm that could be caused to the Plaintiff's limbs by failing to provide the proper gloves for him to work for use to drill to repair the HVAC unit.

22. That the Defendant, Patricia Tyson, an officer, acting under color of law, of the Federal Bureau of Prison (BOP) acted intentionally, knowingly and recklessly in violations of the Plaintiff's rights to be free from cruel and unusual punishment when she forced the Plaintiff to work in a dangerous situation with a piece of equipment that could severe his limbs without being properly gloved.

23. That Defendant's Patricia Tyson, conduct in intentionally, knowingly and recklessly violated the Plaintiff's clearly established constitutional rights under the Eighth Amendment.

DAMAGES

WHEREFORE, Plaintiff, Richard Clark respectfully requests:

- A. Compensatory damages as to all Defendants;
- B. Punitive Damages to all defendant.

C. Injunctive relief requiring the Defendants to provide the property equipment for dangerous work;

D. That Plaintiff be compensated for his pain and suffering and mental a

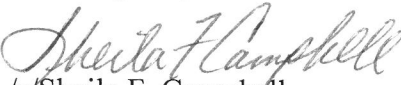
E. Reasonable attorney's fees and costs as to all defendants;

F. Such other and further relief as may appear just and appropriate.

Plaintiff hereby demands a jury trial.

Respectfully submitted,

Sheila F. Campbell
Attorney at Law
P.O. Box 939
North Little Rock, AR 72115
(501) 374-0700(telephone)
(501) 372-5375(fax)
campbl@sbcglobal.net


/s/Sheila F. Campbell
Sheila F. Campbell
Ark. Bar # 83-239



U.S. Department of Justice
Federal Bureau of Prisons
Mid-Atlantic Regional Office

302 Sentinel Drive, Suite 200
Annapolis Junction, MD 20701

February 10, 2020

Sheila F. Campbell
2510 Percy Machin Drive
North Little Rock, AR 72114
P.O. Box 939
North Little Rock, AR 72115

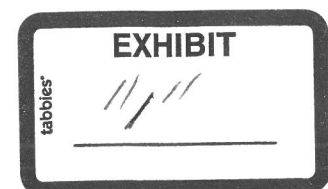
RE: Administrative Claim Number TRT-MXR-2020-00895

Dear Claimant:

Your claim, filed on behalf of Richard Clark (Federal Register Number 40379-044), has been considered for administrative settlement under the Federal Tort Claims Act (FTCA), Title 28 U.S.C. § 2672, *et seq.*, and authority granted under 28 C.F.R. § 0.172. You claim personal liability in the amount of \$50,000.00 for a personal injury suffered by Mr. Clark while working at FCI Memphis. Specifically, you state Mr. Clark injured his hand while operating a drill. You also claim medical negligence.

The Inmate Accident Compensation program is the exclusive remedy available to inmates who sustain work-related injuries, and inmates may not recover damages under the FTCA for work-related injuries. *See* 28 C.F.R. § 301; and FTCA, 28 U.S.C. § 2671, *et seq.* Accordingly, the claim is denied.

Further, to the extent that you argue his particular claim is brought in connection with the subsequent negligence of BOP medical providers, rather than his initial work-related injury, numerous courts have recognized that such a claim is still clearly barred. *See, e.g., Wooten v. United States*, 825 F.2d 1039, 1044 (6th Cir.1987) (“Section 4126 is also the exclusive remedy when a work-related injury is subsequently aggravated by negligence and malpractice on the part of prison officials.”); *Vander v. Dep’t of Justice*, 268 F.3d 661, 664 (9th Cir.2001) (“Despite the appellant’s allegation that the negligence of the hospital worker occasioned further injuries, for which he seeks damages, he is barred from litigating the matter under the Federal Tort Claims Act since the cause of his original injury was work-related and compensable under 18



U.S.C. § 4126.’ ”) (quoting *Thompson v. United States*, 495 F.2d 192, 193 (5th Cir.1974) (same)).

If you are not satisfied with our determination in this matter, you may file suit in the appropriate U.S. District Court not later than six months after the date of this letter.

Sincerely,


for

Michael D. Frazier
Regional Counsel
Mid-Atlantic Region

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: Clark, Richard L. #40379-044 Memphis-B F.C.I. Memphis
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

On or about Tuesday, Sept. 26, 2017., while working in Facilities H.V.A.C., Installing an air conditioning cover with a drill, the drill slipt off the screw and went through my hand glove. The gloves, was not proper gloves under saftey requirments. Because facilities would not supply proper gloves to me. Which could have prevented the drill gofing through my hand.

My left index finger is now completely numb due to nerve damage. I request the proper medical treatment to correct this medical condition

11-28-17
DATE

Richard Clark
SIGNATURE OF REQUESTER

Part B - RESPONSE

Received

FEB 07 2018

Bureau of Prisons
MARO Regional Counsel

Received

DEC 11 2017

Received

JAN 19 2018

Bureau of Prisons
MARO Regional Counsel

Bureau of Prisons
MARO Regional Counsel

~~11-28-17~~
DATE

[Signature] [Signature]
REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 924292-RP

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIE

EXHIBIT

tabbies



REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: FEBRUARY 26, 2018

Handwritten signature
FROM: ADMINISTRATIVE REMEDY COORDINATOR
MID-ATLANTIC REGIONAL OFFICE

TO : RICHARD L CLARK, 40379-044
MEMPHIS FCI UNT: SHELBY QTR: M04-417U
1101 JOHN A DENIE ROAD
MEMPHIS, TN 38134

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 924292-R4 REGIONAL APPEAL
DATE RECEIVED : FEBRUARY 7, 2018
SUBJECT 1 : OTHER MEDICAL MATTERS
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU RAISE MORE THAN ONE ISSUE/RELATED ISSUE OR APPEAL MORE
THAN ONE INCIDENT REPORT (INCIDENT NUMBER). YOU MUST
FILE A SEPARATE REQUEST/APPEAL FOR EACH UNRELATED ISSUE
OR INCIDENT REPORT YOU WANT ADDRESSED.

REJECT REASON 2: YOU MAY RESUBMIT YOUR APPEAL IN PROPER FORM WITHIN
10 DAYS OF THE DATE OF THIS REJECTION NOTICE.

Regional Director
302 Sentinel Dr., Suite 200
Annapolis JCT, Md. 20701

03-10-2018

Richard Clark 40329-044
P.O. Box 34550
Memphis, Tn. 38184

Re: Remedy ID#924292-R4, original Remedy ID#921228-F1

Dear Sirs:

It was no surprise that my BP10 request for administrative remedy was again rejected and returned to me. I can't understand how your office has come up with two different ID numbers, as my only issue remains the same. I was injured on the job due to negligence of the BOP, and request proper medical treatment to repair the nerve damage in my finger, or be compensated for said damage.

Enclosed, again please find my BP10 request for remedy that only your office came up with two different numbers for.

Any further questions concerning this issue should be directed to attorney Sheila Campbell, P.O. Box 939,
N. Little Rock, Ark. 72115, phone # 1-888-374-0707.

Yours truly,

Richard Clark

DISREGARD RECEIPT - ADMINISTRATIVE REMEDY

DATE: FEBRUARY 26, 2018

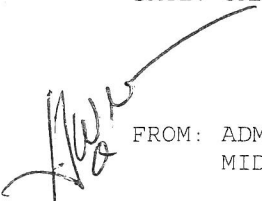
FROM: ADMINISTRATIVE REMEDY COORDINATOR
MID-ATLANTIC REGIONAL OFFICE

TO : RICHARD L CLARK, 40379-044
MEMPHIS FCI UNT: SHELBY QTR: M04-417U

A RECEIPT MAY HAVE BEEN ISSUED, IN ERROR, FOR THE REGIONAL APPEAL
IDENTIFIED BELOW. IF YOU HAVE RECEIVED THIS RECEIPT, PLEASE DISREGARD IT.
REMEDY ID : 924292-R3
DATE RECEIVED : FEBRUARY 7, 2018
SUBJECT 1 : OTHER MEDICAL MATTERS
SUBJECT 2 :

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: JANUARY 19, 2018

 FROM: ADMINISTRATIVE REMEDY COORDINATOR
MID-ATLANTIC REGIONAL OFFICE

TO : RICHARD L CLARK, 40379-044
MEMPHIS FCI UNT: SHELBY QTR: M04-417U
1101 JOHN A DENIE ROAD
MEMPHIS, TN 38134

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 924292-R2 REGIONAL APPEAL
DATE RECEIVED : JANUARY 19, 2018
SUBJECT 1 : OTHER MEDICAL MATTERS
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU DID NOT PROVIDE A COPY OF YOUR INSTITUTION
ADMINISTRATIVE REMEDY REQUEST (BP-9) FORM OR A COPY
OF THE (BP-09) RESPONSE FROM THE WARDEN.

Regional Director
302 Sentinel Dr, suite 200
Annapolis JCT, MD. 20701

01-27-2018

Richard Clark #40379-044
P.O. Box 34550, FCI Memphis
Memphis, Tn. 38184

Re: BP 10 Remedy ID #921228-F1

Dear Sirs,

Enclosed please find all the information
you requested in your rejection notice dated
January 19, 2012.

All this information would have been sent
the first time had Warden Betts answered my BP 9
in the proper time frame.

Thank you for your time.

Yours truly,
Richard Clark

copy: file

FEDERAL CORRECTIONAL INSTITUTION, MEMPHIS, TENNESSEE
PART B-RESPONSE TO REQUEST FOR ADMINISTRATIVE REMEDY
REMEDY 921228-F1

This is in response to your Request for Administrative Remedy wherein you claim that staff did not provide you with proper gloves while you were operating an electric drill, resulting in injury to your hand when the drill bit slipped off of a screw you were driving into an air conditioning cover.

The Safety Manager has stated that the use of gloves is not recommended for the operation of an electric drill due to the safety risks resulting from potential loss of grip on the tool during operation. Facilities staff stated that inmates receive initial job training and staff observe inmates safely operating power tools prior to entrusting them with their use. Review of your accident indicates that you were not using the tool as you had been trained, resulting in your placement of your hand near the spinning drill bit prior to sustaining the injury to your hand. The Safety Manager has further stated that under the circumstances of your accident, he is not aware of a glove that would have prevented your injury.

This response to your Administrative Remedy is for information purposes.

If you are not satisfied with this response, you may appeal to the Regional Director at Bureau of Prisons, Mid-Atlantic Regional Office, 302 Sentinel Drive, Suite 200, Annapolis Junction, Maryland 20701. Your appeal must be received in the Mid-Atlantic Regional Office within 20 days of this response.



Myron L. Batts, Warden

1-10-18

Date

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: DECEMBER 11, 2017

Handwritten signature
FROM: ADMINISTRATIVE REMEDY COORDINATOR
MID-ATLANTIC REGIONAL OFFICE

TO : RICHARD L CLARK, 40379-044
MEMPHIS FCI UNT: SHELBY QTR: M04-417U
1101 JOHN A DENIE ROAD
MEMPHIS, TN 38134

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 924292-R1 REGIONAL APPEAL
DATE RECEIVED : DECEMBER 11, 2017
SUBJECT 1 : OTHER MEDICAL MATTERS
SUBJECT 2 :
INCIDENT RPT NO:

REJECT REASON 1: YOU MUST PROVIDE MORE SPECIFIC INFORMATION (E.G. CASE NO.)
ABOUT YOUR REQUEST/APPEAL SO THAT IT MAY BE CONSIDERED.

REJECT REASON 2: YOU MUST FIRST FILE A BP-9 REQUEST THROUGH THE INSTITUTION
FOR THE WARDEN'S REVIEW AND RESPONSE BEFORE FILING AN APPEAL
AT THIS LEVEL.

EXTENSION OF TIME FOR RESPONSE - ADMINISTRATIVE REMEDY

DATE: DECEMBER 1, 2017

FROM: ADMINISTRATIVE REMEDY COORDINATOR
MEMPHIS FCI

TO : RICHARD L CLARK, 40379-044
MEMPHIS FCI UNT: SHELBY QTR: M04-417U

ADDITIONAL TIME IS NEEDED TO RESPOND TO THE ADMINISTRATIVE REMEDY REQUEST IDENTIFIED BELOW. WE ARE EXTENDING THE TIME FOR RESPONSE AS PROVIDED FOR IN THE ADMINISTRATIVE REMEDY PROGRAM STATEMENT.

REMEDY ID : 921228-F1
DATE RECEIVED : NOVEMBER 9, 2017
RESPONSE DUE : DECEMBER 19, 2017
SUBJECT 1 : SAFETY, SANITATION, ENVIRONMENTAL CONDITIONS
SUBJECT 2 :

RECEIPT - ADMINISTRATIVE REMEDY

DATE: DECEMBER 1, 2017

FROM: ADMINISTRATIVE REMEDY COORDINATOR
MEMPHIS FCI

TO : RICHARD L CLARK, 40379-044
MEMPHIS FCI UNT: SHELBY QTR: M04-417U

THIS ACKNOWLEDGES THE RECEIPT OF THE ADMINISTRATIVE REMEDY REQUEST
IDENTIFIED BELOW:

REMEDY ID : 921228-F1
DATE RECEIVED : NOVEMBER 9, 2017
RESPONSE DUE : NOVEMBER 29, 2017
SUBJECT 1 : SAFETY, SANITATION, ENVIRONMENTAL CONDITIONS
SUBJECT 2 :

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Clark, Richard L. #40379-044 Memphis-B F.C.I.-Memphis
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST

On or about Tuesday, Sept. 26, 2017., while working in Facilities H.V.A.C., Installing an air conditioning cover with a drill, the drill slipt off the screw and went through my hand-glove. The gloves, was not proper gloves under safety requirements. Because facilities would not supply proper gloves to me. Which could have prevented the drill going through my hand.

11-7-17
DATE

[Signature]
SIGNATURE OF REQUESTER

Part B- RESPONSE

1-10-18
DATE

[Signature]
WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 921228-81

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)

ATTACHMENT A

10/12/17

FCI/SPC MEMPHIS, TENNESSEE
ATTEMPT AT INFORMAL RESOLUTION FORM

NOTICE TO INMATE: You are advised that prior to receiving and filing a Request for Administrative Remedy, BP-229(13), you should attempt to informally resolve your complaint through your Correctional Counselor. Briefly, state complaint below and list what effort you have made to resolve your complaint informally.

1. Informal Resolution Form Issued by: 1
2. Inmate Name Richard Clark Number 40399-044 Unit M/B

INMATE'S COMMENTS. (Inmate COMPLETE Items 2, 3, 4, 5 and 6)

3. Complaint: On or about Tuesday Sept 26, 2017 while working in facilities HVAC installing an air conditioning cover with a drill the drill slipped off the screw and went through my Hand-Glove. The gloves were not proper gloves under safety requirements because facilities would not supply proper gloves to me which could have prevented the drill going through my hand.
4. Efforts made to resolve and list staff contacted: Contacted Supervisor Mrs. Dyson. I was taken to medical and transported to the hospital. My hand has permanent damage and is not repairable. An accident report was written.
5. What remedy are you seeking? For facilities to issue proper protective gloves when operating drills and other hazardous equipment as well as offering a settlement for the damage done to my hand.
6. Inmate Signature: [Signature] Date returned: 10-12-17
7. COMMENTS: (To be completed by staff only)

Staff response to complaint:

8. Date informally resolved: _____ Date BP-229(13) issued: _____
9. Signature: _____
Correctional Counselor Unit Manager Date

If complaint is NOT informally resolved, this completed document must be attached to the BP-229(13) form to the Administrative Remedy Clerk.

REGIONAL ADMINISTRATIVE REMEDY APPEAL
PART B - Response

Date Filed: January 3, 2018

Remedy ID No.: 921211-R2

You appeal the Warden's response to your request for administrative remedy. You claim you injured your hand while working in facilities. You request to have the nerves repaired.

A review of your medical records indicates you were seen on December 12, 2017, for your chronic car clinic and there is no indication you mentioned your issue regarding your hand. You will need to utilize sick call to be evaluated by your provider concerning your hand.

Your medical plan of care, developed and implemented by your primary care provider team, is adequate and ongoing. Your condition has been sufficiently addressed. You are encouraged to continue to work with your primary care provider team for your health care related issues and concerns.

This response is for informational purposes only. If you are dissatisfied with this response, you may appeal to the General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the General Counsel's Office within 30 days from the date of this response.

JAN 31 2018

Date

for Matthew W. Mullady
Angela P. Dunbar
Regional Director
Mid-Atlantic Region

PLAINTIFF'S CERTIFICATE OF GOOD FAITH

I, Sheila F. Campbell, being duly sworn, hereby state that the facts in the foregoing Affidavit are true and correct to the best of my knowledge, information and belief and I am not acting under impediment that would prevent me from executing the Affidavit.

In compliance with Tenn. Code Ann. § 29-26-122, I hereby state the following:


1. Plaintiff's counsel has consulted with one (1) or more experts who have provided a signed written statement confirming that upon information and belief they:

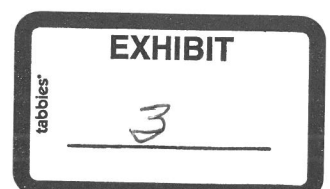
(A) Are competent under § 29-26-115 to express an opinion or opinions in the case; and

(B) Believe based on the information available from the medical records concerning the care and treatment of the Plaintiff, Richard Clark, there is a good faith basis to maintain the action consistent with the requirement of § 29-26-115.

2. I have never been found in violation of T.C.A. § 29-26-122.

Date: 8/7/2020


Sheila F. Campbell
Ark Bar # 83-23



STATE OF ARKANSAS)
COUNTY OF PULASKI)

SUBSCRIBED AND SWORN TO BEFORE ME A NOTARY PUBLIC in
the above and foregoing County and State on this 7th day of August, 2020.

Laurence Jackson
NOTARY PUBLIC

MY COMMISSION EXPIRES:

